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Third District

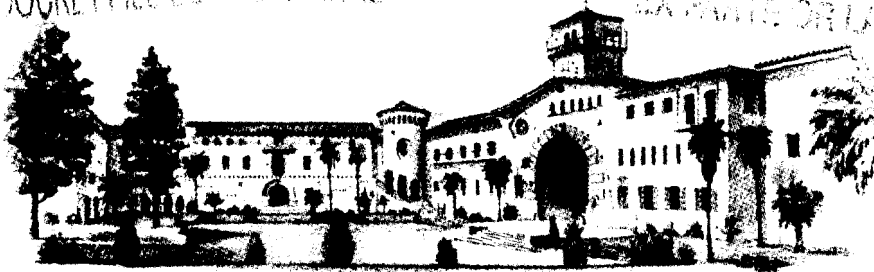
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December 16, 1997

COUNTY OF SANTA BARBARA

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William Kennard
Chairman Designate
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Ex Parte Letter Re: Cases WT 97-197, MM Docket 97-182, and DA 96-2140

Dear Chairman Kennard:

We respectfully request the FCC Please terminate all action in the subject cases. We believe the proposed rules would essentially make the FCC the "Federal Zoning Commission" for cellular and broadcast towers which would violate the intent of Congress, pursuant to the 1996 Telecommunications Act.

Congress and the courts have long recognized that zoning is exclusively a local responsibility. The FCC has no zoning knowledge or expertise and is not accessible to most citizens. For these reasons and others, Congress expressly preserved local zoning authority over cellular towers in the 1996 Telecommunications Act. Now the FCC is trying to get this jurisdiction back by issuing rules which improperly infringe on local zoning authority.

The FCC's efforts to assume jurisdiction over any local zoning matter where RF radiation emissions are mentioned during a public hearing on a project is unacceptable. The FCC ignores the fact that we cannot necessarily control the statements citizens make during meetings of our legislative bodies. Many municipalities, by state or local law, are required to allow citizens to speak on any topic they wish, even on items that are not on the agenda. This is an important aspect of local government.

Some of our citizens may be concerned about radiation from cellular towers. For the reasons just described we cannot necessarily prevent them from mentioning their concerns to decision-makers. The FCC's attempt to use this issue as a means to seize zoning authority and reverse local decisions violates basic principles of Freedom of Speech and the rights of citizens to petition their government.

This rulemaking seems to ignore the fact that a municipality may hear comments on radio frequency radiation, but completely base their decision on a project on other valid grounds, such

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reasons given by a municipality. Either these reasons are sufficient to uphold the decision or they are not.

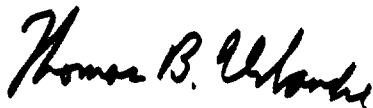
The FCC's proposal to ban moratoria on cellular towers is objectionable for many of the reasons set forth above. It also fails to recognize that for some municipalities moratoria are a well recognized zoning tool, particularly while they revise zoning ordinances. More importantly, Congress took away the FCC's authority over cellular tower zoning, and this includes moratoria.

We also object to the FCC's proposed rulemaking preempting local zoning of broadcast towers. As you know, broadcast towers can be over 2,000 feet high. It is astounding that the FCC would propose that municipalities can't consider the impact of such towers on the environment (e.g., land use compatibility, risk of upset, aesthetics).

The proposed 21-45 day time limits for municipalities to conduct required environmental review and act on zoning and building permit approvals for such towers are unrealistic. The proposal would make it impossible to accept an application for processing, review the application, complete the environmental analysis (including the required public comment period required by California state law, 30 days for a negative declaration and 45 days for an environmental impact report), and take the project to hearing for a decision within the proposed timeframe.

Your inclusion of these *ex parte* comments in your deliberations will be appreciated.

Sincerely,



Thomas B. Urbanske
Chair, Board of Supervisors
County of Santa Barbara

xc: Mr. William F. Caton, Acting Secretary, Federal Communications Commission, 1919 M Street, NW Washington, DC 20554 (6 copies)

See Attached List